Response to First Office Action
Docket No. 011.0201.US.UTL

REMARKS

Claims 1-38 remain in this application. Claims 1-13, 15-27, 30-32, and
34-36 have been amended. Claims 1-38 are pending. No new matter has been
entered.

5   Claims 1-38 stand rejected under 35 U.S.C. § 112, first paragraph, for lack
of enablement. Applicant traverses the rejection.

"The test of enablement is whether one reasonably skilled in the art could
make or use the invention from the disclosures in the patent coupled with
information known in the art without undue experimentation." MPEP § 2164.01

10   (citing *U.S. v. Telectronics, Inc.*, 857 F.2d 778, 785, 8 U.S.P.Q.2d 1217, 1223
(Fed. Cir. 1988)). The examiner has the initial burden to establish a reasonable
basis to question the enablement provided for the claimed invention. A
specification disclosure, which contain a teaching of the manner and process of
making and using an invention in terms, which correspond in scope to those used

15   in describing and defining the subject matter sought to be patented must be taken
as being in compliance with the enablement requirement of 35 U.S.C. § 112, first
paragraph, unless there is a reason to doubt the objective truth of the statements
contained therein which must be relied on for enabling support. MPEP § 2164.04.

Each of the terms listed in the rejection for lack of enablement, "idle

20   time," "time-to-idle," "not actively connected," "warm idle connection," and
"cold idle connection," are sufficiently described in the specification to comply
with the 35 U.S.C. § 112, first paragraph, enablement requirement. "Idle time" is
described on page 14, lines 26-29 and page 15, lines 15-21. "Time-to-idle" is
described on page 17, lines 1-22. "Not actively connected" is described on page

25   10, lines 11-12. "Warm idle connection" is described on page 10, lines 12-15.
"Cold idle connection" is described on page 10, lines 13-15. As the specification
provides a sufficient teaching of the foregoing terms, withdrawal of the rejection
of Claims 1-38 under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 1-38 stand rejected under 35 U.S.C. § 102(e) as being anticipated

30   by U.S. Patent No. 6,308,238 to Smith et al. ("Smith"). Applicant traverses the
rejection.

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A claim is anticipated under 35 U.S.C. §102(e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. The Smith patent fails to teach or suggest each and every claim element and fails to anticipate Claims 1-38.

5   Smith discloses a system and method for network managing connections between clients and a server, wherein the connection management burden from the host CPU on the server is off-loaded to an adapter card interposed between the network and a server bus (Col. 1, lines 55-60). The adapter card includes a network controller, memory device, processing unit, and protocol adapter (Col. 1,

10   lines 61-63). The memory provides storage for data and code, which includes a proxy application that communicates with the clients on the network via the network controller, and communicates with the server via the protocol adapter that is coupled directly to the server bus (Col. 1, lines 63-67). When executed by the processing unit, the proxy application manages client connections by

15   establishing connections between the proxy application and clients via the network, and by establishing bus connections between the proxy application and the server via the *server bus* (Col. 2, lines 1-5).

In contrast, Claim 1 recites a time estimates generator dynamically generating, concurrent to and during processing of each request, time estimates of

20   service availability based on a time-to-idle for sending the requests over each of a plurality of *network* connections to the origin server. Claim 1 has been amended to clarify that the connection to the origin server is a network connection. Such limitation is neither taught nor suggested by Smith, which instead teaches a bus connection to the server via a server bus. Support can be found in the

25   Specification on Page 6, line 25 through page 7, line 4.

In contrast, Claim 15 recites dynamically generating, concurrent to and during processing of each request, time estimates of service availability based on a time-to-idle for sending the requests over each of a plurality of *network* connections to the origin server. Claim 15 has been amended to clarify that the

30   connection to the origin server is a network connection. Such limitation is neither taught nor suggested by Smith, which instead teaches a bus connection to the

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server via a server bus. Support can be found in the Specification on Page 6, line 25 through page 7, line 4.

In contrast, Claim 30 recites means for dynamically calculating, concurrent to receiving and during processing of each request, time estimates of

5   TCP overhead, slow start overhead, time-to-idle, and request transfer time for sending the requests over each of a plurality of managed *network* connections to the origin server. In particular, Claim 30 has been amended to clarify that the connection to the origin server is a network connection. Such limitation is neither taught nor suggested by Smith, which instead teaches a bus connection to the

10   server via a server bus. Support can be found in the Specification on Page 6, line 25 through page 7, line 4.

In contrast, Claim 34 recites dynamically calculating, concurrent to receiving and during processing of each request, time estimates of TCP overhead, slow start overhead, time-to-idle, and request transfer time for sending the

15   requests over each of a plurality of managed *network* connections to the origin server. In particular, Claim 1 has been amended to clarify that the connection to the origin server is a network connection. Such limitation is neither taught nor suggested by Smith, which instead teaches a bus connection to the server via a server bus. Support can be found in the Specification on Page 6, line 25 through

20   page 7, line 4.

Furthermore, Smith teaches away from efficiently forwarding client requests in a distributed computing environment, per Claims 1, 15, 30, and 34. Smith discloses, as is well-known and commonly accepted in the art, that proxy servers must be housed separately from the server and must thus communicate

25   with the relatively slow, error prone network connections, which the server must manage (Col. 1, lines 39-47). As a result, Smith teaches a bus connection to the server via a server bus that facilitates high speed, large packet size, relatively error free communication between proxy and server applications, as compared to network connections (Col. 5, lines 22-27). Smith thus teaches a system and

30   method for relieving the server CPU of the connection management burden, thus allowing the server to more efficiently host an increased number of clients (Col.

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1, lines 47-52; Col. 5, lines 27-32).

In contrast, Claim 1 further recites a network connection manager selecting the network connection to the origin server with a substantially highest service availability and a substantially lowest time-to-idle and forwarding each

5   request to the origin server using the selected network connection. Such limitation is neither taught nor suggested by Smith, which instead teaches a bus connection that does not require dynamically generated time estimates nor selection based such time estimates.

In contrast, Claim 15 further recites selecting the network connection to

10   the origin server with a substantially highest service availability and a substantially lowest time-to-idle and forwarding each request to the origin server using the selected network connection. Such limitation is neither taught nor suggested by Smith, which instead teaches a bus connection that does not require dynamically generated time estimates nor selection based such time estimates.

15   In contrast, Claim 30 further recites means for choosing the managed network connection from, in order of preferred selection, a warm idle network connection, an active network connection with a time-to-idle less than a slow start overhead, a cold idle network connection, an active network connection with a time-to-idle less than a TCP overhead, a new managed network connection, and

20   an existing managed network connection with a smallest time-to-idle. Such limitation is neither taught nor suggested by Smith, which instead teaches a bus connection that does not require dynamically generated time estimates nor selection based such time estimates.

In contrast, Claim 34 further recites choosing the managed network

25   connection from, in order of preferred selection, a warm idle network connection, an active network connection with a time-to-idle less than a slow start overhead, a cold idle network connection, an active network connection with a time-to-idle less than a TCP overhead, a new managed network connection, and an existing managed network connection with a smallest time-to-idle. Such limitation is

30   neither taught nor suggested by Smith, which instead teaches a bus connection that does not require dynamically generated time estimates nor selection based

such time estimates.

Therefore, the Smith reference fails to describe all the claim limitations and does not anticipate Claims 1, 15, 30, and 34. Claims 2-14 are dependent on Claim 1 and are patentable for the above-stated reasons, and as further

5   distinguished by the limitations recited therein. Claims 16-29 are dependent on Claim 15 and are patentable for the above-stated reasons, and as further distinguished by the limitations recited therein. Claims 31-33 are dependent on Claim 30 and are patentable for the above-stated reasons, and as further distinguished by the limitations recited therein. Claims 35-38 are dependent on

10   Claim 34 and are patentable for the above-stated reasons, and as further distinguished by the limitations recited herein. Withdrawal of the rejection under 35 U.S.C. §102(e) is respectfully requested.

The prior art made of record and not relied upon has been reviewed by the applicant and is considered to be no more pertinent than the prior art references

15   already applied.

Claims 1-38 are believed to be in a condition for allowance. Entry of the foregoing amendments is requested and a Notice of Allowance is earnestly solicited. Please contact the undersigned at (206) 381-3900 regarding any questions or concerns associated with the present matter.
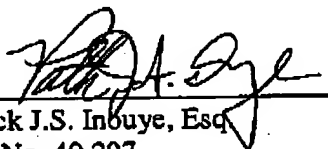
20   Respectfully submitted,

Dated: October 19, 2004   By: _____
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